

Statement

Insurance Association of Connecticut

March 20, 2009

Judiciary Committee

**HB 6683, An Act Concerning The Resolution Of Claims Involving
Workers' Compensation Liens.**

The Insurance Association of Connecticut is opposed to HB 6683, An Act Concerning The Resolution Of Claims Involving Workers' Compensation Liens, as it is unnecessary, unfair and provides no benefit except to the plaintiff's bar.

SB 6683 seeks to reduce an established workers' compensation lien by one-third solely to provide additional compensation to plaintiff's counsel. Why should a workers' compensation lien be reduced at all to pay an attorney the employer has no relationship with? Current law already provides that an employer may pursue a direct action, or even join an action, to recover one's lien. That can be done at minimal cost to the employer. Yet if the employer does not choose to pursue a claim of its own, or join the plaintiff's claim, then HB 6683 would penalize the employer at the benefit of only the plaintiff's chosen attorney. Why? HB 6683 will result in reducing the recovery of what has already been paid under the workers' compensation system, driving up lost costs, impacting rates.

Furthermore, HB 6683 is contrary to the current law, Section 31-293, which was designed to protect the worker's compensation lien in its entirety. HB 6683 ignores the requirements of 31-293 which dictates that a workers' compensation lien is reimbursed before any payment is made to the injured party and arguably before one's attorney is

paid. Pursuant to the terms of HB 6683, the worker's compensation lien would be subordinate to payment to the employee and the attorney, as the workers' compensation lien does not attach until the employee has received and controls the settlement proceeds, presumably minus the attorney's fees. As such, HB 6683 statutorily protects the attorney's fees yet does nothing to ensure that the worker's compensation lien is satisfied. Furthermore recovery of a workers' compensation lien does not take any more time, skill or knowledge to recover than recovery of a child support lien, doctor's lien or tax lien, warranting such an attorney fee.

Additionally, the equation to calculate the attorney fee contained in HB 6683 is convoluted and serves only to enrich the plaintiff's counsel. The equation contained in HB 6683 is nonsensical. It contains non-defined terms and incorporates costs never intended to be paid out of the worker's compensation lien. Additionally, HB 6683 further reduces the workers' compensation lien by limiting it to only benefits received by the claimant. Currently law permits an employer the right to recover "any amount that he has paid or has become obligated to pay as compensation to the injured employee". Such recovery includes any probable future payments which the employer may become obligated to pay on account of the injury

Finally, HB 6883 is unprecedented by dictating a party's rights to negotiate. Currently, employers are free to compromise its lien if they so choose. It is not for the legislature to statutorily require a compromise of any lien, let alone a worker's compensation lien.

As HB 6683 provides no benefit to employers, employees or the worker's compensation system, the IAC strongly requests your rejection of HB 6683.